

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LENIER AYERS,

Plaintiff,

v.

HENRY RICHARDS, et al.,

Defendants.

CASE NO. C08-5390BHS

ORDER GRANTING
DEFENDANTS' MOTION
FOR RECONSIDERATION

This matter comes before the Court on Defendants' motion for reconsideration (Dkt. 189). The Court has considered the motion and the remainder of the file and hereby grants Defendants' motion.

I. FACTUAL & PROCEDURAL HISTORY

On June 18, 2008, Plaintiff filed his complaint. Dkt. 1. Plaintiff filed a similar matter in federal court (Case No. C08-5541 RJB/KLS), which is pending, and also filed another matter in state court (*In re the Personal Restraint Petition of Lenier Ayers*, 39884-2II, Wash. Court of Appeals), which is stayed pending the outcome of Plaintiff's two federal matters.

On September 22, 2009, Plaintiff filed his third motion for previously requested public disclosure. Dkt. 164. On October 5, 2009, Defendants filed a response and a motion for sanctions. Dkt. 167. On October 13, 2009, Plaintiff filed an affidavit. Dkt. 173. On October 20, 2009, Defendants replied. Dkt. 172.

1 On November 16, 2009, the Magistrate Judge granted Defendants' motion for
2 sanctions (Dkt. 167) and ordered Plaintiff to pay \$500 into the court registry on or before
3 January 8, 2010. Dkt. 180, at 5. The Magistrate Judge stayed the action pending payment
4 of the sanction and informed Plaintiff that failure to pay the sanction on or before January
5 8, 2010, would result in a recommendation that this action be dismissed for failure to
6 comply with a court order and as a sanction for his conduct. *Id.*, at 5-6. Plaintiff did not
7 pay the sanction. Accordingly, the Magistrate Judge recommended that Plaintiff's case be
8 dismissed without prejudice for failure to comply with the Court's order. Dkt. 183.

9 On January 19, 2010, Defendants objected (Dkt. 184) to the Magistrate Judge's
10 Report and Recommendation (Dkt. 183).

11 On March 3, 2010, the Court overruled Defendants' objections and adopted the
12 Magistrate Judge's report and recommendation with the following modification: "In the
13 event Plaintiff renews his claim against Defendants, Plaintiff must pay the \$500 sanction
14 at the time of filing his complaint." Dkt. 187 at 2.

15 On March 11, 2010, Defendants moved the Court to reconsider its ruling. Dkt.
16 189. On March 23, 2010, the Court ordered Plaintiff to file a response to Defendants'
17 motion for reconsideration. Dkt. 191. On March 30, 2010, Plaintiff responded. Dkt. 193.
18 On March 31, 2001, Defendants replied. Dkt. 195.

19 On April 8, 2010, Plaintiff subsequently filed another response (Dkt. 198) and
20 submitted a document entitled "Declaration in Opposition Response to Defendants'
21 Motion for Summary Judgment and Clarification on Plaintiff's Motion to Consolidate
22 CSN's C08-5390 to CSN C08-5541 Court Calendar Dates." Dkt. 199.

23 II. DISCUSSION

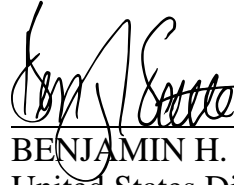
24 The Court has considered the motion and the remainder of the file and hereby
25 concludes that, in the interest of preserving judicial economy, Plaintiff's case should be
26 heard on the merits. Therefore, the Court refers this matter and its pending motions to the
27 Magistrate Judge for a Report and Recommendation.

III. ORDER

Therefore, it is hereby

ORDERED that Defendants' motion for reconsideration (Dkt. 189) is
GRANTED, and this matter and its pending motions are **REFERRED** to the Magistrate
Judge for a Report and Recommendation.

DATED this 23rd day of April, 2010.



BENJAMIN H. SETTLE
United States District Judge